OCT 27 2011

## IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF VIRGINIA ROANOKE DIVISION

JULIA CO DUBY FINDLERK BY: DEPUTY CLERK
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UNITED STATES OF AMERICA	Criminal Action No.: 7:08-CR-00031-3
v.	FINAL ORDER
RICHARD TYRONE MCMILLAN.	By: James C. Turk Senior United States District Judge

In accordance with the accompanying Memorandum Opinion, it is hereby **ORDERED** and **ADJUDGED** that the government's motion to dismiss (Dkt. No. 235) is **GRANTED**; that McMillans's motion to vacate (Dkt. No. 224) pursuant to 28 U.S.C. § 2255 is hereby **DISMISSED**; and McMillan's motion to appoint counsel is **DENIED** as moot. This action shall be **STRICKEN** from the active docket of the court.

Further, finding that McMillan has failed to make a substantial showing of the denial of a constitutional right as required by 28 U.S.C. § 2253(c), a certificate of appealability is DENIED.

The Clerk is directed to send copies of this order and the accompanying memorandum opinion to the parties.

ENTER: This 27th day of October, 2011.

Senior United States District Judge